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## Appeal Decision

Site visit made on 25 April 2023

**by Chris Preston BA(Hons) BPI MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 2 May 2023**

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**Appeal Ref: APP/C1950/D/21/3283546**

**51 Kentish Lane, Brookman's Park, Hertfordshire AL9 6NG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mrs T Flammia against the decision of Welwyn Hatfield Borough Council.
  - The application Ref 6/2021/1021/HOUSE, dated 26 March 2021, was refused by notice dated 02 July 2021.
  - The development proposed is: Erection of an outbuilding for ancillary use in connection with the main dwelling house with external veranda.
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### Decision

1. The appeal is allowed and planning permission is granted for the erection of an outbuilding for ancillary use in connection with the main dwelling house with external veranda at 51 Kentish Lane, Brookman's Park, Hertfordshire AL9 6NG in accordance with the terms of the application, Ref 6/2021/1021/HOUSE, dated 26 March 2021, and the plans submitted with it.

### Main Issue

2. The outbuilding has already been constructed and was in use as a studio, garden room/ area for displaying artwork at the time of my site visit.
3. The main issue is dispute is whether the outbuilding constitutes inappropriate development within the Green Belt and, if it does, whether the harm to the Green Belt by way of that inappropriateness is outweighed by other considerations such that the very special circumstances necessary to justify the development exist.

### Reasons

4. The development is located within the Green Belt where new development is strictly controlled. As set out within paragraph 149 of the National Planning Policy Framework (the Framework) the construction of new buildings should be considered inappropriate unless they fall within a closed list of exceptions. Residential outbuildings are not expressly listed but the Courts have held that they may be considered as an extension to a dwelling, under paragraph 149(c), where they constitute a normal domestic adjunct.
5. A studio/ room where a homeowner will display or create art is a functional space of the type commonly found in a residential properties and can be considered to fall within the description of a normal adjunct to the house. However, the Council maintain that it should not be considered as an extension

- on account of the distance from the dwellinghouse. It is the case that the garden is large and the studio is situated at the bottom end, away from the main house.
6. However, the explanatory text to saved policy RA3 of the Welwyn Hatfield District Plan (2005) (the Local Plan) does note that the policy, which relates to extensions to dwellings within the Green Belt, will also be applied to outbuildings "*that require planning permission (e.g. stables, kennels, garages etc.)*". Stables are unlikely to be erected in a small garden and, in my experience, are often found some distance from a dwelling on account of noise and odour. Similar arguments could be made in relation to kennels. Thus, it seems to me that the text does envisage that the policy will be applied to structures that may not be close or immediately adjacent to a dwelling.
  7. Moreover, recent caselaw has indicated that buildings some distance from the main house can still be considered as extensions where they amount to a normal domestic adjunct<sup>1</sup>. In this case, although at the bottom of the garden, the outbuilding faces back towards the dwelling and still maintains an intimate association with it. Having regard to that, established caselaw, and the terms of saved policy RA3, I am satisfied that the structure can be considered as an extension to the main dwellinghouse under paragraph 149(c) and policy RA3.
  8. Under paragraph 149(c) and saved policy RA3 extensions will be acceptable where they do not result in a disproportionate addition over and above the size of the original building. The original building is a substantial property in a neo-classical style. The planning history suggests that some previous extensions have been carried out and there is already another outbuilding, what appears to be a summerhouse, in the rear garden.
  9. The parties have referred to the footprint of those outbuildings but that is only one factor to consider when assessing whether a building amounts to a disproportionate addition. The overall scale and volume are equally important. In this case, the outbuildings are single storey structures with modest roof heights; both the appeal building and the summerhouse have shallow asymmetrical roofs which help to reduce their height and apparent mass.
  10. I have not been provided with any volumetric calculations. However, I was able to observe the dwellinghouse and the various outbuildings at my site visit. Taking account of the considerable size, height, volume and mass of the original building, the cumulative additions, including the appeal building, are not disproportionate in scale in my view. They remain modest and subservient to the original property.
  11. The uncovered swimming pool sits below ground level and has little visual impact. In any event, I am not satisfied that it should be considered as an extension to the dwelling because it does not provide domestic accommodation but is more akin to a structure designed for outdoor leisure. As such, the presence of the pool does not alter my conclusion that the proposal, in combination with other extensions and outbuildings, does not represent a disproportionate addition.
  12. In addition to the above, saved policy RA3 requires that any extension must not have an adverse visual impact on the character, appearance and pattern of

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<sup>1</sup> Warwick DC v SSLUHC, Mr J Storer & Mrs A Lowe [2022] EWHC 2145 (Admin)

development in the surrounding countryside. The structure is entirely contained within the garden of the property and shielded from external views by mature vegetation. Its design is sympathetic to the existing garden and dwelling and the Council has raised no objection in that respect.

13. In view of the above, I am satisfied that the structure is not inappropriate development in the Green Belt, having regard to paragraph 149 of the Framework, and saved policy RA3 of the Local Plan. I also find no conflict with saved policy GBSP1 of the Local Plan which seeks to ensure that the defined area of Green Belt within the district will be maintained.

#### *Other Matters*

14. Reference has been made to the site being used for filming purposes. However, the structure is put forward as an ancillary outbuilding in connection with the residential use of the property. That was how it was being used at the time of my visit and I have considered the appeal on the basis. If the outbuilding, or the site as a whole, was used for any purpose that was materially different to the established residential use then planning permission would be required. If such development took place without the necessary permission that would be a matter for the Council to consider. As such, that matter does not have a bearing on my decision which is based on the use described within the application.

#### *Conditions*

15. As the structure is already in place and is of acceptable design, there is no need to impose conditions relating to the commencement of work, or to ensure that details of materials are submitted and agreed. Similarly, it is not necessary to attach a condition to ensure that the development complies with the submitted plans because it is complete and appears to be in accordance with the plans submitted.
16. Within the delegated officer report it is suggested that a condition could be attached to ensure that the development only contains ancillary accommodation. However, I am not satisfied that such a condition is necessary. The building does contain ancillary domestic accommodation as described above. Any materially different use that was not associated with the use of the main dwelling would require planning permission and that is sufficient control of itself, without the need to impose a condition. Beyond that, precisely how a homeowner chooses to utilise an outbuilding is a matter for them, providing it is of an ancillary nature.

#### **Conclusion**

17. For the reasons given above the outbuilding does not amount to inappropriate development within the Green Belt and complies with the aims of the Framework and the relevant policies of the development plan in that respect. In the absence of any other harm I conclude that the appeal should be allowed and planning permission granted for the development that has already taken place.

  
INSPECTOR